

No. 9/8/86-6Lab/5112.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s. Flowell Plumbings, Fixtures Co., Old Najafgarh Road, Gurgaon :—

IN THE COURT OF SHRI R. N. SINGAL, PRESIDING OFFICER, LABOUR COURT,  
FARIDABAD

Reference No. 391 of 1985

between

SHRI DEEPAK MAJUMDAR, C/O, RAO PIRTHVI SINGH YADAV, LABOUR LAW  
ADVISOR, SHANTI NAGAR, NEAR NATIONAL HIGHWAY, NO. 8, GURGAON.

AND

THE RESPONDENT-MANAGEMENT OF M/S. PLOWELL PLUMBINGS, FIXTURES CO.,  
OLD NAJAFGARH ROAD, GURGAON.

Present:

Shri Pirtavi Singh Yadav, for the workman.

Shri A. D. Kolhatkar, for the respondent-management.

AWARD

This industrial dispute between the workman Shri Deepak Majumdar and the respondent-management of M/s Flowell Plumbings, fixtures Co., Gurgaon has been referred to this Court by the Hon'ble Governor of Haryana,—vide his order No. ID/GGN/38-85/25908—13, dated 17th June, 1985 under section 10(1)(c) of the Industrial Disputes Act, 1947 for adjudication. The terms of the reference are :—

Whether the termination of services of Shri Deepak Majumdar was justified and in order ? If not, to what relief is he entitled ?

According to the demand notice, and claim statement, the workman was employed with the respondent on 1st December, 1982 and his services were illegally terminated on 25th February, 1982. He has prayed for reinstatement with continuity of service and with full back wages.

This claim has been contested by the management, objection is taken that the workman has voluntarily abandoned his job. He was advised to collect his dues. But he did not turn up. It is further alleged that Section 2-A of the Industrial Disputes Act is not attracted as he has voluntarily left the job. On facts it is admitted that he was employed from 1st February, 1982 to 28th December, 1983. He was again employed on 1st January, 1984 and voluntarily left the service on 25th February, 1985. It is further alleged that letters were also written to him on 12th March, 1985 to join the duty on 18th March, 1985. Again letter was written on 19th March, 1985 to join duty upto 30th March, 1985. He was informed,—vide letter dated 3rd April, 1985 that his name was struck off.

Rejoinder has been filed, denying these averments. The parties contested the reference on the following issues :—

1. Whether the reference is bad ?
2. As per reference ?

I have heard the representatives of both the parties and have gone through the evidence on record. My findings on the issues *seriatim* are as under :—

Issue No. 1 :

The representative of the management has contended that management had filed the comments Ex.M-6 before the Labour Cum Conciliation Officer in which it is alleged that the workman had voluntarily left the job. Hence reliance is placed on the judgement of Bombay High Court; between Sitaram Vishnu Shirodhkar and the Administrator, Government of Goa and other ; 1985-1 LLJ-page 480, that the reference is bad. These comments were filed on 8th April, 1985. It has been admitted by MW-2 that the demand notice was received in this office on 1st March, 1985, and 12th March, 1985, 28th March, 1985, 4th April, 1985 and 8th April, 1985 were fixed.

On these dates no objection was taken that the workman had voluntarily left the job. Hence objection was taken at the late stage to frustrate the demand notice of the workman which was served on 27th February, 1985. Hence it is clear that this objection is taken to defeat the claim of the workman. Hence this Court is competent to decide this reference and it cannot be said to be a case of abandonment of service and the reference is not bad in law.

*Issue No. 2 :*

It has been admitted by the management as MW-1 that the claimant was appointed on 1st January, 1984 and left the service on 25th February, 1985. Hence the workman has completed more than one year of service. The provisions of section 25-F of the Industrial Disputes Act were not complied with. The management has contended that they had never terminated the services of the workman. They had written Ex. M-2, M-3 and Ex. M-4 that he should join duty. There is no evidence to prove that these letters were ever posted to the workman. Moreover during these days conciliation proceedings were also pending and there is no evidence that the management had offered the workman to join duty. These letters have not been entered in the receipt register of the Labour Officer, Gurgaon. It has also been admitted by MW-2 Miss. Punshpa, Steno of Labour Officer that these letters were never brought to the knowledge of the workman during the conciliation proceedings. These letters have not been entered in any proceedings. The Labour Officer has not mentioned the date under his signatures. Hence it cannot be said that the management has been writing letters to the workman to join duty. The management has terminated the service of the workman on 25th February, 1985 and the workman served the demand notice on 27th February, 1985. Before the Conciliation Officer no objection has been taken upto 8th April, 1985 that the workman has himself abandoned the job. I, therefore, find that the defence is after-thought. As the workman has completed more than one year of service. Hence, compliance of provisions of section 25-F of the Industrial Disputes Act were mandatory before terminating his services. Provisions of section 25-F of the Industrial Disputes Act were not complied with by the management before terminating his services on 25th February, 1985. I, therefore find that the order of termination of services of the workman was illegal and unjustified. He is, therefore, entitled to be reinstated with continuity of service and with full back wages. He is also entitled to Rs. 200/- as costs of the proceedings.

The award is given accordingly.

Dated the 16th May, 1986.

R. N. SINGAL,  
Presiding Officer,  
Labour Court, Faridabad.

Endorsement No. 1449, dated the 31st May, 1986.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act.

R. N. SINGAL;  
Presiding Officer,  
Labour Court, Faridabad.

No. 9/8/86-Lab/5114.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management of M/s Special Steel Forgings Pvt. Ltd., Gurgaon :—

IN THE COURT OF SHRI R. N. SINGAL, PRESIDING OFFICER,  
LABOUR COURT, FARIDABAD

Reference No. 135 of 1984

*between*

SHRI B. S. TIWARI, C/O MERCANTILE EMPLOYEES ASSOCIATION, H 347, NEW  
RAJENDER NAGAR, NEW DELHI, WORKMAN AND THE -MANAGEMENT  
OF M/S SPECIAL STEEL FORGINGS PVT. LTD., GURGAON.

*Present:—*

Shri R. N. Roy, for the workman.

Shri M. P. Gupta, for the management.

## AWARD

This industrial dispute between the workman Shri B. S. Tiwari, and the respondent-management of M/s Special Steel Forgings Pvt. Ltd., Gurgaon has been referred to this Court by the Hon'ble Governor of Haryana,—vide his order No. ID/GGN/7284/25384—89 dated 20th July, 1984, under Section 10 (i) (c) of the Industrial Disputes Act, 1947 for adjudication. The terms of the reference are:—

Whether the termination of services of Shri B. S. Tiwari, was justified and in order? If not, to what relief is he entitled?

According to the demand notice, the workman was appointed on 1st July, 1980, as Store Clerk at Rs. 364 p. m. On 15th March, 1984 at 8.00 p. m. he was refused at the factory gate by Shri Sita Ram Chowkidar to join duty. This amounts to retrenchment but no retrenchment compensation was given to the workman. Hence, the workman has prayed for reinstatement with continuity of service and with full back wages.

In the claim statement he has further alleged that the management wrote letters to the workman to join duty. Hence the workman went to join duty on 24th April, 1984, 25th April, 1984, 26th April, 1984, 27th April, 1984, 28th April, 1984 and 29th April, 1984 but he was refused duty of the Store-Clerk which he was performing at the time of his termination. The workman was asked to work as Beldar and not as a clerk. During the conciliation proceedings also the management has alleged that the workman was a Beldar but they did not give any evidence.

This claim statement, has been contested by the management. It is contended that the workman has himself left the job. His services have never been terminated. He was absent from duty. Hence he is deemed to have relinquished the job. After demand notice, the management clarified that he was not refused work but he was absent from duty. The workman was again asked by letter dated 25th March, 1984, to report for duty. Again on 29th April, 1984, 3rd May, 1984. The union was informed that the workman was absent. The workman came to work on 28th April, 1984. He was directed to work in forging department. The workman refused to work in this department saying that he will only work in the store. He was only appointed as a helper. There was no job of helper in the store Department. Hence he was asked to work in the forgings Department but without any information, the workman left the job. The workman was retrenched on 1st August, 1984 along with other workers after seniority list.

Rejoinder has been filed, denying the above said averments of the management. The reference was contested on the following issues : —

1. Whether the reference is bad?
2. As per reference?

I have heard the authorised representatives of both the parties and have gone through the evidence on record. Both the issues are inter-connected. Hence decided together. My findings on the issues are as under : —

*Issue No. 1 & 2.*

The contention of the workman is that he was not allowed duty from 15th March, 1984, whereas the contention of the management is that he remained absent from 16th March, 1984. It is admitted case of both the parties that after exchange of different letters, the workman went to join duty on 28th April, 1984. It is alleged by the workman himself that he was offered the duty of Beldar, whereas he had demanded the duty of a Store Clerk. The contention of the management is that he was appointed only as helper. There was no post in the store Department. Hence he was asked to work in the forging Department. The workman refused to work in the Forging Department. There is no evidence that the claimant was appointed as store Clerk. He was offered duty in the forging department, but he did not join duty. He should have join duty as offered by the management and should have got the dispute referred as to whether he was appointed in the store department or he was a general helper, but the workman did not do so. He refused to join duty as a Beldar which clearly shows that he himself left the job, but the management has not struck off his name from the muster rolls. The seniority list was prepared and pasted on the notice board. It was so admitted by the workman in his statement. It was contended by the management that he was retrenched on 1st August, 1984 and retrenchment compensation was offered to him. It is admitted case of both the parties that the factory has been closed, at the spot since 1st November, 1984. A notice was also given to the Govt. for closure. The workman was also duly informed about the closure of the factory. The workman has himself admitted in his statement that the factory is lying closed. Hence the workman is not entitled to be reinstated. He is entitled to the

retrenchment benefits as offered by the management. He is not entitled to any wages from 16th March, 1984 to the date of retrenchment as he is the workman who did not join duty as offered by the management.

The award is given accordingly.

Dated. the 14th May, 1986.

R. N. SINGAL,  
Presiding Officer,  
Labour Court, Faridabad.

Endst. No. 1451, dated the 31st May, 1986.

Forwarded (four copies), to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the I. D. Act.

R. N. SINGAL,  
Presiding Officer,  
Labour Court, Faridabad.

No. 9/8/86-6Lab./5120.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s S. G. Steel Pvt. Ltd., Plot No. 6, Sector 4, Ballabgarh :—

IN THE COURT OF SHRI R. N. SINGAL, PRESIDING OFFICER, LABOUR COURT,  
FARIDABAD

Reference No. 349 of 1984

*between*

SHRI REKHI RAM AND THE MANAGEMENT OF M/S. S. G. STEEL PVT. LTD..  
PLOT NO. 6, SECTOR 4, BALLABGARH

*Present :*

Shri Manohar Lal, for the workman.

Shri Rajinder Dhawan with Shri A. K. Sharma for the management.

#### AWARD

This industrial dispute between the workman Shri Rekhi Ram and the respondent-management of M/s G. S. Steel Pvt. Ltd., Plot No. 6, Sector 4, Ballabgarh, has been referred to this Court by the Hon'ble Governor of Haryana,—vide his order No. ID/FD/45-84/32060—65, dated 28th August, 1984, under section 10(i)(c) of the Industrial Disputes Act, 1947 for adjudication. The terms of the reference are :—

Whether the termination of services of Shri Rekhi Ram was justified and in order ? If not, to what relief is he entitled ?

The parties have settled their dispute. According to the statement of representative of parties, the workman has settled his dispute. Photo of the settlement is Ex. M-1. He has received Rs. 6,000, in full and final settlement of all the claims, Photo copy of the receipt is Ex. M-2. He has no right of reinstatement/re-employment with the management.

In view of the above settlement, the award is given that the dispute has been fully settled.

Dated the 30th May, 1986.

R. N. SINGAL,  
Presiding Officer,  
Labour Court, Faridabad.

Endorsement No. 1457, dated the 31st May, 1986.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

R. N. SINGAL,  
Presiding Officer,  
Labour Court, Faridabad.